IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 14108 of 2004

Between:

Smt.K.S. Krupavathi W/o. Prabhakar,
R/o. 27/197, Moolasagaram, F.P.Shop Dealer, 26th 27th ward, Nandyal, Nandyal Town, Kurnool District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Nandyal, Nandyal Post & Mandal, Kurnool District.
2 The Mandal Revenue Officer, Nandyal, Nandyal Post & mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Certiorari call for the records made in Rc.E616/2004 dt.28.7.2004 and quash the same as illegal, arbitrary, violative of order 8 of A.P. Scheduled Commodities Dealers (Licensing and Distribution) Order 1982 and violation of Principles of Natural Justice and further direct the Respondents to continue the petitioner as F.P. Shop dealer of 26th and 27th ward, Nandyal, Kurnool District.

Counsel for the Petitioner: MR.G.V.N.PRASAD

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following:

ORDER:

Petitioner is the authorised Fair Price Shop Dealer of 26th and 27th Wards, Nandyal, Nandyal Town, Kurnool District.

This writ petition is filed aggrieved by the order dated 28.07.2004 passed by the first respondent-Revenue Divisional Officer, Nandyal, under which the authorisation of the petitioner was cancelled with immediate effect.

As can be seen from the impugned order, the only reason shown was that as per the report of the Mandal Revenue Officer dated 27.07.2004, the shop in question was being run by benami in the name of Sri Hussaini for the past 2 ½ years.

The learned counsel for the petitioner denies the said allegations and contends that the order of cancellation, which was passed without affording any opportunity to the petitioner to rebut the allegations, is arbitrary and illegal.

This Court, while directing notice, by order dated 10.08.2004 granted interim suspension of the impugned order of cancellation

dated 28.07.2004.

In the counter affidavit filed by the second respondent-Mandal Revenue Officer, now a new plea has been taken that the authorisation of the petitioner is valid upto 31.03.2003 and therefore she is not entitled to continue as dealer. It is further stated that as per the enquiry made by the Mandal Revenue Officer, Nandyal, the petitioner was married to one Sri Prabhakar and has been residing at Done along with her husband and the fair price shop is being run by Sri Hussaini @ K.Pallavu. On the said ground it is stated that the petitioner is guilty of violation of conditions of authorisation issued under the A.P. State Public Distribution System Control Order, 2001 (for short 'the Control Order') and therefore the authorisation of the petitioner has been rightly cancelled.

The petitioner filed an affidavit in reply denying the allegations made by the respondents stating that she has been very much residing in the village. It is further stated that the petitioner has also applied for renewal of the authorisation on 07.03.2003 and that since the same is pending with the respondents, the authorisation shall be deemed to be subsisting.

As can be seen from the material, the matter involves several disputed questions of fact and the same cannot be investigated by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. Admittedly, against the impugned order of cancellation, an appeal lies to the Joint Collector. Hence, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to prefer an appeal before the Joint Collector. So that the appellate authority, on appreciation of the evidence that may be produced by the petitioner would record a finding as to the allegations made and decide the correctness of the impugned order of cancellation. If such an appeal is preferred within a period of two weeks from today, the same shall be considered and disposed of in accordance with law after affording due opportunity to all the parties concerned. In the meanwhile, the interim order of suspension granted

by this Court on 10-08-2004 shall continue for a period of four weeks from today.

Accordingly, the writ petition is disposed of. No costs.

27.10.2004

VGB

To

1 The Revenue Divisional Officer, Nandyal, Nandyal Post & Mandal, Kurnool

District.

2 The Mandal Revenue Officer, Nandyal, Nandyal Post & mandal, Kurnool

District.

3 2CCs to the Government Pleader for Civil Supplies, High Court

Buildings, Hyderabad (OUT)

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